Appl. No.: 09/262,172
Amdt. Dated: 11/19/2004
Off. Act. Dated: 05/19/2004

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

General Remarks

The claims in the instant application have been amended to recite additional aspects of the invention for the purpose of advancing prosecution of this application. However, the Applicant respectfully, but firmly, submits that the claims as previously presented were not properly examined and are patentable over the cited references. In particular, the Examiner improperly equated database related elements of the Applicant's claims to aspects of the relied-upon references which did not teach those elements of the Applicant's claims. The Applicant has addressed those errors in examination in the Applicant's prior response. Clearly, contrary to the Examiner's determination, the teachings of Mogul et al. do not comport to those of Applicant's claimed invention, and a number of these rejections are supported by broad generalizations of the Mogul et al. reference which are incorrect.

In general, the Applicant respectfully submits that significant claim limitations were overlooked by the Examiner. Most telling is that Mogul et al., which is the Examiner's primary reference, has no description whatsoever of a multimedia engine which operates on content records from a database as recited in the Applicant's claims. The portions of Mogul et al. that were relied upon by the Examiner were those describing conventional browser operations, and did not teach or suggest what was recited in the Applicant's claims.

Additionally, the term "database" found in the Applicant's specification and claims have a plain meaning to one of ordinary skill in the art which has been ignored in the examination process. A database is a large set of structured data typically being managed by a database management system (DBMS) which is a computer program or suite of programs for managing and accessing the database. An "engine" in a DBMS processes records within the database in response to the structure of the database. It

will be appreciated that typical records in a database are configured with record numbers, and other record-to-record information, and are accessed by indexing. Databases may be relational, flat indexed, or configured with various structures and relationships between the records. Records within a database are manipulated, inserted or deleted by the "engine" of the DBMS without the user needing to manually alter the content of the records.

Notably, however, there is no *bona fide* database described by Mogul et al. and, in particular, no indexing mechanism of a software engine for processing the multimedia information. Mogul et al. simply does not describe the use of multimedia content records within a database as recited in the Applicant's claims.

"DATABASE" IN MOGUL IS NOT EQUIVALENT

The Examiner refers to column 5, lines 5-18 of Mogul et al. to support the rejection of the database aspects of the Applicant's claims. The Examiner refers to this section of Mogul et al. as a "web page database". However, according to Mogul et al., this so-called "database" comprises a collection of web pages stored on disk. Nowhere does Mogul et al. describe a database having content records as recited in the Applicant's claims, and no indexing mechanism used by the multimedia engine.

In contrast, Applicant's database 14 is clearly shown in FIG. 1B as a collection of records, and the database has a pointer to a record Index# controlled by buttons 56a, 56b within the button display window 40 shown in FIG. 1E.

Note also that the novelty of Mogul et al. lies in changing presentation feature depth in response to measured network traffic. The HTML pages are conventional (***Mogul et al. is not configured for "storing multimedia content records"* as recited in the Applicant's claims**) and the serving of the web pages does not comport to receiver side content accesses of multimedia content records (***Mogul et al. has no discussion of a software engine means for seamlessly accessing a "multimedia content record" in a database as recited in the Applicant's claims***).

Consequently, the technology taught by Mogul et al. is unrelated to the

technology recited in the Applicant's claims. The majority of aspects of Mogul et al. cited by the Examiner are aspects contained within any conventional web based system and do not meet the limitations of the Applicant's claims. By way of example, column 1, lines 32-38 of Mogul et al. are referenced by the Examiner as follows:

> *"The most common way to access a Web page is by using a Web browser, for example, the Netscape Navigator.TM., the Microsoft Internet Explorer.TM., or through some Internet service such as AOL. The Web pages are located by specifying their addresses. A Web page address is indicated by a Universal Resource Locator (URL). The URL can either be specified directly, or by "clicking" on a "hot-link" in a previously retrieved page."*

The above passage recited conventional Internet aspects, and only serves to indicate that the instant application is within the field of Internet-related art. The cited passage otherwise has no bearing on the invention recited in the Applicant's claims.

As another example, the Examiner cites column 4, lines 40-45 of Mogul et al. in support of the rejection as follows:

> *"If the Web page includes graphic images, then the adjusting can include reducing the size of the graphic image, reducing the resolution of the graphic image, reducing the number of colors of the graphic image, and reducing the spatial frequencies of the graphic image."*

The above citation again describes the object of the teaching Mogul et al. for changing the size of a given piece of content. It does not teach or suggest the elements of Applicant's Claim 1 for example.

In attempting to support a rejection, the Examiner has (once again) either overlooked or ignored the elements of the Applicant's claims which are discussed at length in the instant application and which have been discussed at length in the Applicant's responses to the prior Office Actions.

Furthermore, the elements recited in a number of the dependent claims are nowhere to be found in Mogul et al. and only broad generalizations are relied upon by the Examiner in support of the rejection. Yet, Mogul et al. does not teach or suggest the more specific embodiments recited in the Applicant's dependent claims.

Appl. No.: 09/262,172
Amdt. Dated: 11/19/2004
Off. Act. Dated: 05/19/2004

Specific Remarks

In response to specific claim rejections, the Applicant will first address how the Mogul et al. reference does not support a rejection of the amended portions of the claims. The Applicant will then provide a discussion of how Mogul et al. does not support the rejection of the claims as previously presented (prior to the current amendment).

1. Rejection of Claims 1-19 and 25-44 under 35 U.S.C. §103(a).

Claims 1-19 and 25-44 were rejected under 35 U.S.C. §103 as being unpatentable over (U.S. Patent No. 6,243,761) to Mogul et al.

Claim 1. Claim 1 is an independent claim drawn to an apparatus for accessing and displaying multimedia content.

As amended, Claim 1 now additionally recites that the software engine means is directed toward "seamlessly accessing a content record in said database means according to a record index value and locating and displaying associated media elements referred to in ~~that~~ the indexed content record".

In contrast, Mogul et al. does not describe a true database, nor does it describe a content record, and very clearly does not describe accessing content records according to a record index value.

In the Applicant's invention, content record 16 is shown within database 14, and an HTML record value is shown as the first field of record 16 along with a two ended pointer indicating the ability to move between fields. In addition, the last field is shown as a "Record Index #". Indexes are database structures that do not exist in a conventional collection of web pages. It is recognized by anyone of ordinary skill in the art that a web page is internally referenced; that is, it contains internal links to file names of other pages. The user must select one of these references to pull up the other web page. Even when a map of other pages is provided within a web site, it is provided by including links within that web page to every other web page that may be selected. It is not according to an indexing mechanism as exists with a bona fide

database structure.

In addition, the Applicant describes indexing with the database on page 8, Lines 8-10 as follows: "By clicking on map screen button 54, the user will access a map window 58 which displays the current position in the database index with a highlight."

Still further, Claim 1 includes the recitation "software engine means is configured for interpreting embedded instructions within custom tags of said content record that direct access to other content records in said database". There are no "custom tag" mechanisms taught or suggested by Mogul et al., and certainly none that can be interpreted by the software engine toward accessing other content records.

Still further, Claim 1 now recites that the software engine means "is configured for generating multiple windows and controlling within which window the media elements referred to in said content records are to be displayed". Applicant's software engine itself generates multiple windows within which the content records may be displayed, and selects within which window the content will be displayed. Web pages by contrast can support tables, which are not equivalent to windows, and within which the cells have fixed content.

Accordingly, the amended aspects of Claim 1 are distinct from the teachings of the Mogul et al. reference.

In support of the rejection for Claim 1, prior to amendment, the Examiner erroneously concluded that Mogul et al. describes a database with content records; however, there is no basis for making such a comparison.

The Examiner referred to Fig. 1, element 111 of Mogul et al. which is marked as "Client and Page Database" and column 5, lines 5 - 17 which indicate only that *"as server can maintain a database (DB) 111 that stores web pages. The web pages are essentially content rich data files that encode multimedia information in various formats."* Mogul et al. goes on to specify what those formats can be: "plain text, colored graphic images, moving video, and audio. Typically, the web pages 112 are designated using the HyperText Mark-up Language (HTML). With HTML, any number of

multimedia data files can be specified as inserts for a particular web page. This citation is completely moot with regard to the database aspects of Claim 1, because these "inserts" are simply content accessed via URLs embedded within the HTML.

Storing web pages in a disk drive is typical of web based operations, and is not being claimed in Claim 1, or the other of the Applicant's claims. Claim 1 describes the use of "multimedia context records", which utilize custom tags for controlling access to local and remote resources along with other context records within the database. The disk drive storage of web pages within Mogul et al. is not a true database, as it is not indexed.

One fundamental aspect of the Applicant's invention is the organization of multimedia content records in a database, for which there are no teachings at all within Mogul et al. The Mogul et al. reference: (i) does not teach, suggest or provide motivation or incentive for the subject matter of the rejected claims, and (ii) operates under different principles of operation and toward a different objective.

In Applicant's Claim 1, a "database means" is recited for "storing multimedia content records" having "associated references to media files for a multimedia presentation". These content records are processed by the "software engine means" described in the second clause of the claim. The database in the Applicant's invention contains "multimedia content records", which are processed by the "software engine means, executed on a computer for accessing a content record in said database means and seamlessly locating and displaying associated media elements referred to in that content record". In contrast, there is no database being processed by a software engine means in Mogul et al. and none is suggested by the reference. Clearly, there is no support for the obviousness rejection against Claim 1.

Mogul et al. describes a server which stores HTML pages being served over the Internet to clients, wherein the detail of the HTML content sent is determined by registered bandwidth. In contrast, the Applicant's invention is not a server application, but is a desktop based system which coordinates a complex collection of content

sources into a seamless presentation. Furthermore, Applicant's invention generally operates to resize the display to match the size of the content, instead of the other way around as recited by the references. Mogul et al. does not teach or suggest an apparatus for accessing and displaying multimedia content, but describes a server which selects alternative HTML content based on available bandwidth. The use of custom tags, such as embedded in the HTML, for controlling the display of content as taught by the Applicant is nowhere mentioned or suggested in Mogul et al.

Therefore, Mogul et al., which is the primary reference cited by the Examiner, does not teach those aspects of the Applicant's claims which the Examiner asserted the reference teaches. As such, the Applicant respectfully submits that Mogul et al. cannot be used in support of an obviousness rejection. Consequently, the rejection of Claim 1 as well as the claims that depend therefrom should be immediately withdrawn and the claims should be allowed.

As a reminder, it is the burden of the USPTO to establish a prima facie case of obviousness when rejecting claims under 35 U.S.C. §103. However, none of the elements of Claim 1 can be found in the cited reference, there is nothing in the cited reference from which one of ordinary skill in the art would find any suggestion, motivation or incentive so as to render Claim 1 obvious, and the invention of Claim 1 as a whole would not have been obvious to one of ordinary skill according to the requirements of 35 U.S.C. §103 for any other reason. Therefore, the rejection cannot stand and should be withdrawn.

Nor does the Examiner demonstrate the existence of any logical incentive, suggestion or motivation to alter the teachings of Mogul et al., a reference that is sufficient in itself to accomplish its objectives, to the use of context records and a software engine means as recited in the Applicant's Claim 1.

Thus far, the most obvious of shortcomings of the grounds for rejection have been addressed. However, there exist a number of additional shortcomings which have not been addressed at any length, including: the Applicant's invention uses a new

principle of operation and solves a different problem than the cited reference, and the elements in the cited reference are not equivalent to those in the Applicant's claims.

The Applicant therefore respectfully requests that the rejection of Claim 1 be withdrawn since Mogul et al. (i) does not describe the elements of Applicant's Claim 1, (ii) operates under different principles of operation and toward a different objective, (iii) can not be modified to result in Applicant's invention as described by Claim 1, and (iv) does not provide any teaching, suggestion, motivation or incentive from which one of ordinary skill in the art would find the Applicant's invention recited in Claim 1 to be obvious.

Furthermore, with regard to Claim 1 only, the Applicant respectfully repeats the reminder in the previous Office Action responses that Claim 1 is written in means plus function format. That reminder has once again been overlooked or ignored by the Examiner, because the Examiner has again failed to make a determination of scope for these means elements. Under *In re Donaldson*, Claim 1 must be construed to means within the structure described in the specification and its equivalents. When properly interpreted under *In re Donaldson*, Claim 1 clearly distinguishes over Mogul et al. and that reference does not suggest, teach or provide motivation or incentive for the invention recited in Claim 1.

The Examiner has made no determination of the scope of the means plus function language based on the Applicant's specification or made a proper comparison under *In re Donaldson*. Therefore, the Applicant respectfully traverses the grounds for rejection, and cites *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994)(en banc) as the basis for the traversal. Claim 1 is written in means plus function form pursuant to 35 U.S.C. §112, sixth paragraph, and therefore, must be interpreted during examination under *In re Donaldson*.

In rejecting Claim 1, the Examiner made no specific fact findings as to the scope of equivalents for the means plus function elements in the claim. Instead, the Examiner appears to have followed the provisions of MPEP § 2183 ("Making a Prima Facie Case

of Equivalence"), which states:

> If the examiner finds that a prior art element performs the function specified in the claim, and is not excluded by any explicit definition provided in the specification for an equivalent, the examiner should infer from that finding that the prior art element is an equivalent, and should then conclude that the claimed limitation is anticipated by the prior art element. The burden then shifts to applicant to show that the element shown in the prior art is not an equivalent of the structure ... disclosed in the application. *In re Mulder*, 716 F.2d 1542, 219 U.S.P.Q. 189 (Fed. Cir. 1983). No further analysis of equivalents is required of the examiner until applicant disagrees with the examiner's conclusion, and provides reasons why the prior art element should not be considered an equivalent.

While the Examiner appears to have followed the provisions of MPEP §2183, such provisions are contrary to Federal Circuit law. The Federal Circuit has held that an examiner "construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure ... described therein, and equivalents thereof," *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994)(en banc), and in so ruling expressly denied that "the PTO is exempt from this mandate." Id. The Federal Circuit added that it was specifically overruling any precedent that suggested or held to the contrary. Id. at 1193-94. In response to the PTO's argument that the court's ruling conflicted with the principle that a claim should be given its broadest reasonable interpretation during prosecution, the Federal Circuit held that the Donaldson decision was setting "a limit on how broadly the PTO may construe means-plus-function language under the rubric of 'reasonable interpretation.'" Id. at 1194. In other words, an examiner's claim interpretation is not "reasonable" if it is not based on the specification's description of the implementation of the means element of the claim. The court then said, "Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such [means - plus - function] language when rendering a patentability determination. " Id. at 1195.

Here, as in *Donaldson*, the Examiner is required by statute to look to the Applicant's specification and construe the "means" language as referring to

corresponding means disclosed in the specification and equivalents thereof." See id. at 1195. However, the Examiner did not construe the means language of these claims. Nor did the Examiner find, on the basis of specific facts of record here, that the means disclosed in the Applicant's specification were equivalent to that of the cited references. Instead, as prescribed by MPEP §§ 2183-84, the Examiner simply presumed equivalence. The presumption methodology used here, which the MPEP prescribes, clearly conflicts with the requirements of the Federal Circuit's Donaldson decision. The approach taken by the Examiner in this case also conflicts with *In re Bond*, 931 F.2d 831 (Fed. Cir. 1990).

The very point of these cases is that, in this context, limitations from the specification control the interpretation of the claim. Under §112, paragraph 6, a means-plus-function element of a claim must be construed to mean that which is disclosed in the specification and its equivalents. In *Donaldson*, the Federal Circuit said that "our holding does not conflict with the general claim construction principle that limitations found only in the specification of a patent or patent application should not be imported or read into a claim." In other words, the court was saying that a §112, paragraph 6 "means" element does not need to be "imported or read into" a means-plus-function claim because the specification's limitations and their equivalents are already in the claim by virtue of §112, paragraph 6's command. Thus, the Federal Circuit said (16 F.3d at 1195): "What we are dealing with in this case is the construction of a limitation already in the claim in the form of a means-plus-function clause and a statutory mandate on how that clause must be construed."

Consequently, based on the foregoing, the Applicant respectfully submits that the rejection of Claim 1 lacks proper foundation and that the rejection should be withdrawn. Claim 1 should have been interpreted in view of the specification as required by *In re Donaldson*.

Claim 2. Claim 2 is an independent claim which has been amended to include similar recitations as described above with respect to Claim 1.

Appl. No.: 09/262,172
Amdt. Dated: 11/19/2004
Off. Act. Dated: 05/19/2004

Specifically, Claim 2 now recites additional details about the software engine which accesses content records "according to a record index value". Conventional web pages, as taught by the Mogul reference are not accessed through indexing mechanisms, but are selected from hyperlinks embedded within each web page.

In addition, Claim 2 recites additional elements of the software engine as follows:

"*programming executable on said software engine for,*

interpreting embedded instructions within custom tags of said content record for directing access to other content records in said database,

generating multiple display windows within which content records are to be displayed,

controlling which window of said multiple windows that the media elements referred to in said content records are to be displayed."

There are a number of elements above that are clearly not taught or suggested by Mogul et al., including but not limited to those described in the following discussion. As mentioned previously, Mogul et al. does not teach or suggest the use of custom tags within a content record. Mogul et al. doesn't have or need contact records. And, clearly Mogul et al. does not have or need custom tags that allow access to be directed to other content records. Mogul et al. does not teach or suggest a software engine that generates multiple display windows for the content records, or for controlling which window that the media elements for a content record are to be displayed.

Therefore, amended Claim 2 has elements clearly not taught nor obvious in view of Mogul et al.

The rejection of Claim 2, even prior to amendment herein, closely follows that of Claim 1, and a similar lack of support exists for a *prima facie* case of obviousness even for the claim prior its amendment. The arguments set forth traversing the rejection of Claim 1 can be generally applied to Claim 2. In particular, the content records of the Applicant's invention cannot be equated to web pages accessible on a server which serves conventional HTML pages from a disk drive (referred to as a database but not

having a record structure of a database) for use by a browser as taught by Mogul et al. The cited reference does not support the rejection of Applicant's Claim 2.

As mentioned with regard to Claim 1, Mogul et al. does not teach or suggest an apparatus for accessing and displaying multimedia content, but describes a server which selects alternative HTML content based on available bandwidth. The Examiner's suggested modification of Mogul et al. is untenable: it does not result in Applicant's invention as embodied by Claim 2, it does not describe the necessary structural changes, and further provides no support for making any changes. The Examiner's suggested modification *in toto* is as follows: *"It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the rich data files encoding multimedia information in various formats for media files to presented to clients as taught by Mogul because it would have made the apparatus for accessing and displaying for reducing the size, the resolution of the graphic image and the spatial frequencies of graphic image and the page can be compressed too (col. 4, lines 41-50)."* The *"utilize the rich data files encoding multimedia information in various formats"* does not describe Applicant's invention. It would follow from this rejection that anything containing databases that makes use of browsers would be "obvious"; wherein all R&D relating to the Internet is just a waste of time.

The Examiner's proposed modification does not yield the Applicant's invention, a lack of specificity exists with regard to modifying Mogul et al., and there is no motivation to modify Mogul et al. to change its principle of operation. Once again, the Examiner's description of modifications to Mogul et al. do not make any sense; they generally describe the use of databases and multimedia content, but provide no information as to how one would create applicants claimed invention from the reference. No suggestion or motivation for making changes exists in the first place, since the teachings of Mogul et al. are based on different structures and has different purposes and operating principles than Applicant's claimed invention.

It is the burden of the USPTO to establish a prima facie case of obviousness

when rejecting claims under 35 U.S.C. §103. However, none of the elements of Claim 2 can be found in the cited reference, there is nothing in the cited reference from which one of ordinary skill in the art would find any suggestion, motivation or incentive so as to render Claim 2 obvious, and the invention of Claim 2 as a whole would not have been obvious to one of ordinary skill according to the requirements of 35 U.S.C. §103 for any other reason. Therefore, the rejection should be withdrawn.

Claim 3. Claim 3 is an independent claim which has been amended to include similar material as incorporated into independent Claim 1 and Claim 2 as described above.

Specifically, Claim 3 now recites further details about the software engine which accesses content records in said database "according to a record index value". This aspect of database structure was discussed above within regard to Claims 1 and 2 above, and is not taught or suggested by Mogul et al. which must rely on hyperlinks according to conventional HTML web page selection.

In addition, Claim 3 recites additional aspects of the programming as follows:

"interpreting embedded instructions within custom tags of said content record for directing access to other content records in said database,

generating multiple display windows within which content records are to be displayed,

controlling which window of said multiple windows that the media elements referred to in said content records are to be displayed."

There are a number of elements above that are clearly not taught or suggested by Mogul et al., including but not limited to those discussed below. As mentioned previously, Mogul et al. does not describe or need the use of custom tags within a content record. Mogul et al. doesn't have or need contact records. And, clearly Mogul does not have or need custom tags that allow access to be directed to other content records. Mogul et al. does not teach or suggest a software engine that generates multiple display windows for the content records, or for controlling which window that

the media elements for a content record are to be displayed.

Therefore, amended Claim 3 has elements clearly not taught nor obvious in view of the Mogul reference.

The rejection of independent Claim 3, prior to amendment, closely follows that of Claims 1 and 2, and similarly lacks necessary support. The arguments set forth by the Applicant traversing the rejection of Claims 1 and 2 can be applied to Claim 3. In particular, Mogul et al. fails to teach the use of content records as that term is known in Applicant's invention, while also failing to teach programming that provides for seamlessly accessing of those content records. As mentioned previously, Mogul et al. directed at a web page server which selects HTML pages for sending based on available bandwidth. The reference does not teach or suggest what the Examiner has contended, and does not render Claim 3 unpatentable. The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 3.

Therefore, the Applicant respectfully requests that the rejection of Claim 3 be withdrawn because no support exists for making a *prima facie* case of obviousness.

Claim 4. Claim 4 is an independent claim which has been amended to include similar material as incorporated into independent Claims 1 - 3 as described above. The sections of Claim 4 which were amended are:

"wherein said ~~computer~~ programming is configured for ~~performs the steps of~~,

seamlessly accessing a content record in a database, according to a record index value, said records containing HTML content and custom tags readable by said programming, [[and]]

wherein one or more of said custom tags point to other content records in the database,

locating and displaying media elements within one of multiple windows generated by said programming and referred to in that content record."

As mentioned with regard to Claims 1-3, Mogul et al. does not teach or suggest an indexing mechanism for the content records which comports to that described

above, does not teach or suggest custom tags, and does not teach or suggest the generation of multiple windows by the software engine and referred to the content records.

Therefore, Claim 4 is patentably in relation with the relied upon reference which provides no teaching of these aspects or motivations or incentives for modification.

The rejection of independent Claim 4, prior to amendment, was similar to that of Claims 1 through 3, and similarly lacked necessary support. The arguments set forth in this office action apply to Claim 4 prior to amendment, and the traversal of the rejection of claims 1, 2, and 3 can be generally applied to Claim 4. In particular, Mogul et al. fails to teach the use of content records as that term is known in Applicant's invention, while also failing to teach instructions executable on a computer for seamlessly accessing of those content records. The Examiner's proposed modification (for which no suggestion or motivation exists to propose the combination) does not describe a modification, but only duplicates the generalized remarks found for Claim 1 about utilizing rich data files.

Therefore, Mogul et al., which is the primary reference cited by the Examiner, does not teach or suggest those aspects of the Applicant's claims which the Examiner asserted the reference teaches or suggests. The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 4. Applicant respectfully requests that the rejection of Claim 4 be withdrawn because no support exists for making a *prima facie* case of obviousness against Claim 4.

Claim 5. Claim 5 is an independent claim which has been amended to include similar material as incorporated into independent Claims 1 - 4 as described above. The sections of Claim 5 which were amended are:

"(b) a software delivery engine associated with said database and executable on a computer for seamlessly ~~accessing a~~ displaying content records accessed according to a record index value into [[in]] said database; ~~means~~ and

(c) programming within said delivery engine for,

generating multiple display windows,

interpreting custom tags embedded in said content records of said database, one or more of said custom tags pointing to other content records in said database,

locating and displaying within one of said multiple display windows, ~~as one seamless multimedia application media elements referred to in that~~ said content record, regardless of whether said media elements are stored on a local storage device or stored remotely on an Internet server to provide a single seamless multimedia application for displaying media elements."

Again, Claim 5 recites an indexing mechanism within the delivery engine which is not taught or suggested by Mogul et al. Nor does Mogul et al. teach or suggest the interpretation of custom tags that can be directed to other content records, or the generation of multiple display windows by the delivery engine.

The rejection of independent Claim 5, prior to amendment, was similar to that of Claims 1 through 4, and similarly lacked necessary support. The arguments set forth traversing the rejection of claims 1 through 4 can be generally applied to Claim 5. In particular, Mogul et al. fails to teach the use of content records as that term is known in Applicant's invention, while also failing to teach a software delivery engine associated with the database of content records locating and displaying media elements as one seamless multimedia application. Mogul et al. is directed at different goals, utilizes different principles, and contains structures that are not amenable to modification to Applicant's invention. And furthermore, there exists absolutely no suggestion, or motivation found in the reference or generally known in the art to make the changes to the reference, without relying on teachings within the instant applications.

The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 5. Applicant respectfully requests that the rejection of Claim 5 be withdrawn because no support exists for making a *prima facie* case of obviousness against Claim 5.

Appl. No.: 09/262,172
Amdt. Dated: 11/19/2004
Off. Act. Dated: 05/19/2004

Claim 6. Claim 6 is an independent claim which has been amended to include similar material as incorporated into independent Claims 1 - 5 as described above. The sections of Claim 5 which were amended are:

"seamlessly accessing, using a software engine executable on a computer, a content record in said database accessed according to a record index value;

Interpreting custom tags embedded in said content records of said database, one or more of said custom tags pointing to other content records in said database;

generating multiple display windows; and

locating and displaying media elements referred to in ~~that~~ said content record within one or more of said multiple display windows."

Once again the indexing, custom tags, and multiple display window aspects are recited in this amended claim but are not taught or suggested by Mogul et al.

Therefore, amended Claim 6 clearly is patentable over the relied-upon reference.

The rejection of Independent Claim 6, prior to amendment, is similar to that of the rejection for Claims 1 through 5. The arguments set forth traversing the rejection of Claims 1 through 5 can be generally applied to Claim 6. In particular, Mogul et al. fails to teach or suggest the storage of multimedia content records as that term is understood within the Applicant's invention, within a database, and also does not teach or suggest a software engine which can seamlessly access the content records.

The very generalized modification to Mogul et al. proposed by the Examiner in the rejection does not remedy the shortcomings of the reference and is directed at conventional aspects of web page serving, specifically the retention of pages in a database, and the use of a browser for displaying the pages which can include various media content. The proposed "modification" does not describe a modification but the desirability of having *"rich data files encoding multimedia information in various formats"*. In any case, the "modification" does not resolve the shortcomings, and modifications which could resolve the shortcomings would still remain unworkable as they would then render the prior art unsatisfactory for its intended purpose (MPEP

2143.01) and would of necessity alter the principles of operation of the references (MPEP 2143.01), and of course the only place where such suggestions are made toward Applicant's invention are found within the teachings of the Applicant. As a consequence, the obviousness rejection lacks support, as Mogul et al. does not teach or suggest anything that is directed at the unconventional aspects of the present invention, and Mogul et al. uses different methodologies to accomplish different purposes with different goals than that of the Applicant's invention as recited in Claim 6.

As a result, there is nothing in the cited references from which one having ordinary skill in the art would find Applicant's Claim 6 or the claims that depend therefrom, to be obvious. A failure on any of these necessary aspects for an obviousness rejection are sufficient to traverse the rejection, it should be observed that the rejection fails in each of these regards.

The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 6. Applicant respectfully requests that the rejection of Claim 6 be withdrawn because no support exists for making a *prima facie* case of obviousness against Claim 6.

Claims 7-18. These claims depend from a variety of independent claims, although referred to in the section of the Office Action relating to Claim 6. These claims are not obvious in view of Mogul et al. as has been shown, and these dependent claims should *a fortiori* be considered allowable. However, it should also be recognized that the separate teachings of these claims has not been properly considered by the Examiner.

The Examiner has contended that *"...Mogul discloses wherein multimedia content records include at least one custom tag, wherein said software engines is configured to read said custom tag; wherein said custom tag instructs said engine to fetch a corresponding multimedia content record from said database; wherein said*

software engine reads said multimedia content record...". Support for the above statements is purported to be found in column 5, lines 12-18 of Mogul et al.

Looking at column 5, lines 12-18 of Mogul et al., however, the Examiner's conclusions cannot be reached. This section of Mogul et al. reads as follows:

> *Typically, the Web pages 112 are designed using the Hyper-Text Mark-up Language (HTML). With HTML, any number of multimedia data files can be specified as inserts for a particular Web page. The "location" of a Web page or insert thereof is specified by an address called a Universal Resource Locator (URL) 113.*
>
> *The clients 120 can be any type of computer, personal computers, workstations, and portable devices, such as a laptop or personal digital assistant (PDA), and the like.*

The conventional URL construct provides the basis for the above assertions, which is absurd. First, a URL is not a custom tag. URLs also do not provide instructions for fetching multimedia content records from a database by way of a software engine. The Applicant has described what constitutes multimedia content records which are stored in a database according to the invention; for example, refer to page 3, line 7 through page 4, line 11. Within that section the Applicant has even described how this differs from a conventional URL as follows:

> *"Where a conventional HTML document hyperlink would either address another HTML document, or a file, the custom tags can do this as well as refer to other records in the database, locate and display images located on the application's CD-ROM in another illustration window, load and run media components from the database and/or program CD-ROM and load Web server-based content. This process is seamless and transparent to the user. The net result is that the user views the content of this multimedia application as one integral application, regardless of the data's origin."*

So basically both the teachings within Applicant's invention, and that of the cited reference have been ignored, and/or misrepresented, in order reject the claims at issue.

Furthermore, other aspects of the dependent claims have been ignored. Although dependent claims should be considered *a fortiori* allowable because they are

based on an independent claim whose patentability has been shown, they contain elements which were not properly considered as pointed out in the following.

Claims 7, 9, 11, 13, 15 and 17 (drawn to different independent claims) each describe the use of "custom tags" which are read by the software engine, a custom tag by its very nature is customized, and therefore not a standard tag. In support of the rejection, the Examiner has incorrectly referred to URLs as found within HTML pages; however, these URLs are conventional HTML pointers which are readable within a browser. By contrast, the custom tags recited in the Applicant's claims are read by the software engine prior to passing the content page to an interface program for display. These aspects are not taught or suggested by Mogul et al. which relies on conventional HTML mechanisms.

Claims 8, 10, 12, 14, 16 and 18 (drawn to different independent claims) describe the generation of a temporary local copy of a content page. This again is not found in Mogul et al. which conventionally interprets the URLs embedded within the HTML pages for accessing content. These URLs do not constitute content records contained in a database.

The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in the foregoing claims. Applicant respectfully requests that the rejection be withdrawn because no support exists for making a *prima facie* case of obviousness.

Claim 19. Claim 19 is an independent claim which is based on Claim 2, but which contains additional limitations. Claim 19 was amended in the same manner as Claim 2 discussed above, including description of the record index, interpretation of custom tags, and generation of multiple display windows with the software engine controlling which window the media content is to be displayed.

Therefore, Claim 19 is clearly patentable over the teachings of Mogul et al. for the reasons discussed above. The aspects of the instant invention recited in Claim 19 are not taught by Mogul et al., and no motivation or suggestion can be found for

modifying the reference, wherein the Applicant respectfully requests that the rejection of Claim 19 be withdrawn.

Claim 25. Claim 25 is an independent claim drawn to a multimedia delivery engine for the seamless delivery of varied multimedia content. This independent claim recites detailed aspects of the invention, aspects of which have been discussed for independent Claims 1-4, none of which are taught or suggested by Mogul et al.

Independent Claim 25 was amended to substantially incorporate the changes to the other independent Claims. Specifically the changes to Claim 25 include:

"(a) a reader routine configured to access ~~HTML record content~~ records within a database according to a record index value;

wherein said records comprise HTML content and custom tags configured for reading by said reader routine;

(b) a display window routine for generating multiple display windows within which record content is displayed;"

In the above section the accessing of the content records is described according to an index value, while the use of custom tags is described. The generating of multiple display windows is also referred to for displaying the content records. These aspects clearly differentiate the instant application over the teachings of the Mogul et al. reference.

Additional amendment to Claim 25 include:

"(i) locate records in said database in response to a record index or a custom tag within a record that points to another record of ~~pointing to~~ said database"

AND

"(iii) load and run media components according to a custom tag from links or links within database records that ~~may be~~ are located in a local storage media or over a network connection as determined by said processing routine,"

The above changes reflect the use of custom tags for pointing to other records in the database and that the custom tag processing routine determines the location of the media components to be loaded and ran. Again, these aspects are not taught by Mogul et al., and there is no motivation nor incentive for modifying Mogul et al. to provide these aspects, especially in view of Mogul et al. being directed toward different purposes.

Even in considering Claim 25 prior to amendment, there were no grounds for an obviousness rejection. The rejection was based on concluding that Mogul et al. discloses "a reader routine to access HTML text content, and a writer routine configured to write HTML content into a temporary cache file".

However, the description found in Mogul et al. at column 5, lines 14-67 is that of conventional URL usage within a browser that displays content pointed to by a URL. The teachings of Mogul et al. do not include the use of HTML custom tags which point to a database of content records, as recited in Claim 25. Furthermore, there is no discussion of copying record content to temporary cache files and displaying the HTML content of the temporary cache files. The Examiner has described the conventional page fetch mechanisms and history mechanisms (see col. 5, lines 26 - 32) in support of the rejection. It should be appreciated, however, that these conventional mechanisms read HTML page content, some of which is read via a URL, and they do not locate records in a database, but only display page contents within the browser based on page content or content of a page pointed to by the history file.

The Examiner erroneously states that Mogul et al. teaches fetching from a database (which is equated to the database of content records). However there is no such teaching within Mogul et al. Mogul et al. describes retrieving page content, which is conventional, but content records according to Claim 25 are not taught or suggested; nor is there any teaching or suggestion of accessing of content records from a database.

That both inventions deal with media components is certainly not sufficient for equating these aspects of the Applicant's invention with those of Mogul et al. It is well known that in supporting an obviousness rejection EVERY claim element must be taught or inherent in the combination. The use of content records, custom tags, and copying of content pages is not even described in Mogul et al., nor is it in any manner inherent to the reference. Nor does the cited reference provide any suggestion, motivation or incentive for the invention recited in Claim 25. Applicant respectfully requests that the rejection be withdrawn because no support exists for making a *prima facie* case of obviousness.

Claims 26-28. These claims depend upon amended Claim 25 and describe aspects of the multimedia content and multimedia delivery engine. Since these claims are dependent on a base claim shown to be allowable, they should be considered *a fortiori* allowable. Furthermore, these claims also disclose elements not found within Mogul et al.. The rejection of these claims should, therefore, be withdrawn.

The Examiner has again misrepresented what is disclosed by Mogul et al. The Applicant's claim language was once again attributed to the Mogul et al. reference despite a lack of ANY relevant teaching whatsoever in that reference. In this case the cited section of Mogul '761 (col. 4, lines 10-24) only addresses serving web pages over a network connection, and there is no discussion at all of retrieving content from a combination of local and remote sources.

Claim 29. Claim 29 is an independent claim which was amended to include similar aspects as the other amended independent Claims 1 - 6, 19 and 25. Specifically, the changes to Claim 29 include:

"(a) accessing HTML record content within a database according to a record index value;

(b) writing HTML text content of said HTML record content to a temporary cache file adapted for being read by an interface program for displaying said HTML text content in [[a]] one of multiple display windows;

Appl. No.: 09/262,172
Amdt. Dated: 11/19/2004
Off. Act. Dated: 05/19/2004

(c) locating records in said database in response to a custom tag pointing to said database, copying record content to a temporary cache file, and controlling which window of said multiple windows for displaying HTML content of said temporary cache file which can include ~~inclusive of~~ graphics and hyperlinks ~~contained therein~~;

(d) locating and displaying images located within local storage devices within an illustration window in response to a custom tag directed at local storage resources[[,]];

(e) interpreting embedded instructions within custom tags of said content record for directing access to other content records in said database;"

It can be seen that the use of a record index value further clarifies the term database, while information about the use of the custom tags and multiple windows is again described. These aspects are not taught by Mogul et al., and Claim 29 cannot be considered obvious in view of the lack of suggestion of incentive in Mogul et al.

Furthermore, the portions of independent Claim 29 which were not amended provide in themselves patentable distinction over Mogul et al. The Examiner's grounds for the rejection of Claim 29 misrepresent what is taught by Mogul et al. Claim 29 contains elements of prior claims and dependent claims, which have shown to be patentable. The Examiner's purported support for the rejection once again attempts to equate conventional HTML aspects recited in Mogul et al; specifically, the use of a browser for viewing HTML with the teachings of the Applicant. However, the Applicant teaches, such as at page 4, lines 4-11: *"Where a conventional HTML document hyperlink would either address another HTML document, or a file, the custom tags can do this as well as refer to other records in the database, locate and display images located on the application's CD-ROM in another illustration window, load and run media components from the database and/or program CD-ROM and load Web server-based content. This process is seamless and transparent to the user. The net result is that*

the user views the content of this multimedia application as one integral application, regardless of the data's origin."

There is no teaching or suggestion in Mogul et al. regarding referring to other records in a database and determining whether to display data from the database which is obtained locally or remotely.

Therefore, numerous aspects of Claim 29 are not taught or suggested by Mogul et al. To support a rejection, each of these claim elements must be found. Because not all of the elements of Claim 29 are found, nor is there any suggestion, motivation or incentive to be found within Mogul et al. for modifying the reference to provide these aspects, the cited reference has been misapplied.

Therefore, Claim 29 is not obvious in view of Mogul et al., and the rejection of Claim 29 along with the claims which depend therefrom should be withdrawn.

Claims 30-32. These claims depend from amended independent Claim 29, which has been shown to be allowable, wherein Claims 30-32 should be *a fortiori* considered allowable.

It should further be recognized that aspects of Applicant's invention are recited in these claims for which there is not teaching or suggestion in Mogul et al. For example, the statement: *"wherein said varied multimedia content comprises both high-bandwidth media for storage across local devices and current and time-sensitive content for storage remotely on an Internet server"*. As mentioned previously, these aspects are not taught or suggested by the cited reference, and the purported support for the rejection (column 4, lines 10-24, and column 5, lines 40-67 and elements 130 and 131 in FIG. 1 of Mogul et al.) refer only to conventional serving of web pages over an internet connection. For example, elements 130 and 131 in FIG. 1 depict the Internet and the web respectively. The Applicant is not attempting to stake a claim on the Internet, or conventional web page serving. These distinctions are brought out in the Applicant's claims which clearly distinguish the Applicant's invention from that of Mogul et al. Claims 30-32 recite further detail information about the use of content records, as

recited in the base claims, and also describe retrieving content from various sources based on information from the content records, and not relying on the execution of individual components to display the various media content.

Claims 33-36. These dependent claims depend from amended independent Claim 3, which has been shown to be allowable, whereby Claims 33-36 should be considered *a fortiori* allowable.

These claims further expand on the description of the content records. In Claim 33, the multimedia engine is described for locating and displaying media elements referred to within a given content page record.

Claim 34 describes the ability of the multimedia engine to display the multimedia elements within one or more selected windows (normal or expanded as recited in Claim 35) within the multimedia presentation. Claim 36 describes displaying images too large for the existing windows. These claimed aspects of Applicant's invention contradict the teaching of Mogul '761 which alters HTML pages sent based on the bandwidth of the device.

Therefore, the rejection of Claims 33-36 should be withdrawn as these claims are both *a fortiori* allowable and provide elements which of themselves are patentably distinct over Mogul et al. The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in the foregoing claims. The Applicant respectfully requests that the rejection be withdrawn because no support exists for making a *prima facie* case of obviousness.

Claim 37. This is an independent claim drawn to an apparatus for providing multimedia tutorials. Claim 37 has been amended similarly to the other independent claims, including the following changes:

"a software engine, executable on a computer, said software engine seamlessly accessing a content record according to a record index value in said database and locating and displaying media elements referred to in that content record;

programming executable on said software engine for,

interpreting embedded instructions within custom tags of said content record for directing access to other content records in said database,

generating multiple display windows within which content records are to be displayed,

controlling which window of said multiple windows that the media elements referred to in said content records are to be displayed;"

The software engine is thus recited in more detail as accessing database content records through the record index as well as to the use of custom tags for accessing other content records in the database, and to the use of the multiple windows within which the software engine controls which content records are to be displayed. In contrast, Mogul et al. does not provide information about any of these elements, which are not even in keeping with the intent of Mogul et al.

Therefore, amended Claim 37 is clearly not obvious in view of the cited reference.

Furthermore, the Applicant submits that Claim 37 prior to amendment was also not obvious in view of Mogul et al. The multimedia content records and software engine means described in prior independent claims are similarly recited in Claim 37, along with additional aspects of the invention. For example, the software engine is said to *"not rely on the execution of individual components or programs which operate independently to display the various media content"*. This limitation is also contrary to the teachings of Mogul et al. which describes server programming (not browser aspects), but which does not disclose anything but conventional handling of the HTML files by a browser, which inherently relies upon individual components for processing the media content elements.

It should be recognized that Mogul et al. does not teach or suggest the use of multimedia content records, as that term is used in the present invention. The cited reference does not describe a software engine for seamlessly accessing content. The cited reference describes a web page server which varies the depth of HTML content

being served in response to the measured bandwidth of the connection to the client. The Applicant's invention is not directed at similar goals, and it describes accessing multimedia content records from within a database for a seamless display.

Clearly, support is lacking for the obviousness rejection of Claim 37, as the elements of Mogul et al. in no way comport to the elements of Applicant's Claim 37.

Therefore, the rejection of Claim 37, as well as the claims which depend therefrom, should be immediately withdrawn. The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 37. The Applicant respectfully requests that the rejection be withdrawn because no support exists for making a *prima facie* case of obviousness

Claims 38-44. These claims depend from independent Claim 37 which has been shown to be allowable over the cited reference, whereby Claims 38-44 should be *a fortiori* considered allowable.

Additionally, Claims 38-44 are dependent claims which were not discussed by the Examiner in the Office Action. A number of aspects of the invention as recited in these dependent claims are not found within the Mogul '761 reference, for example the use of toolbar controls for selecting tutorial positioning with the content records, a map window for displaying tutorial content, and a demonstration window that may be opened for demonstrating a process being described in the tutorial.

Therefore the rejection of these claims should be immediately withdrawn.

2. Rejection of Claims 20-24 under 35 U.S.C. §103(a).

Claims 20-24 are dependent claims which were rejected under 35 U.S.C. §103 as being unpatentable over (U.S. Patent No. 6,243,761) to Mogul et al. in view of Milne et al. (U.S. Patent No. 6,421,692).

These claims recite with more particularity the aspect of seamless accessing of content records, and depend from independent Claims 1, 2, 3, 4 and 19, respectively. As a consequence of the respective base claims having been shown allowable, Claims 20-24 should be considered *a fortiori* allowable and the rejection withdrawn. However,

these claims were also improperly equated by the Examiner to aspects of a proposed combination of Mogul et al. and Milne.

Claims 20-24. It should first be readily recognized that a server program which serves web pages is not combinable with a system for routing multimedia data between components which could be referred to as a combination patch panel and mixing board.

Secondly, these dependent claims specifically recite that "said seamless accessing of content records in said database does not rely on the execution of individual components or programs which operate independently to display the various media content while not providing for any integration of the applications". Conventional programming as found in Mogul et al. relies on using different modules for displaying different forms of media, such as controlled by a browser. The resultant multimedia presentation is therefore not "seamless", because these modules operate independently (non-cooperatively). The system of Milne is a collection of components between which multimedia is connected, wherein each module has its own inputs and outputs. Applicant's invention, by contrast provides an architecture in which the media elements referred to in the multimedia content records processed by the software engine are displayed seamlessly because the software engine is configured for displaying all forms of multimedia content from a database of content records and it does not rely on independent programmed display programming (i.e. plug-ins).

As a number of aspects of the invention, recited in Claims 20-24 are not found in either Mogul et al. or Milne, the combination also is incapable of supporting the rejection. There are numerous other problems with the rejection including, no description of how to modify references, references cannot be combined without changing the principles of operation and making the references unsuited for the original purpose, no suggestion motivation or incentive for making proposed combination and so forth.

Therefore, the impropriety of combining Milne with Mogul et al. to reject Claims 20-24 has been demonstrated in a number of ways. Although these dependent claims

Appl. No.: 09/262,172
Amdt. Dated: 11/19/2004
Off. Act. Dated: 05/19/2004

should have already been considered *a fortiori* allowable in view of the allowability of the base claims to which they depend, they have been shown to contain additional matter that is not taught by the cited references.

3. Amendment of Claims 1-6, 19, 25, 29 and 37.

Claims 1-6, 19, 25, 29 and 37. Independent Claims 1-6, 19, 25, 29 and 37 were similarly amended to further clarify aspects of the invention, in particular database related aspects.

Support for these amendments can be found throughout the specification including the following locations:

(a) FIG. 1B which depicts the database content with records, indexing and so forth.

(b) Page 7, Line 16 through Page 8, Line 6: *"Engine 10 determines component presence and file location, and then presents the component requested when the user clicks the corresponding button. For example, if available, the relevant video clips from the Instructor video files 30 would be displayed in a video clip window 48 when requested by the user by clicking button 42. When Instructor narration is available to complement the main topic, the appropriate button 44 appears and the relevant audio file from sound narration files 34 is played on a speaker 50 when button 44 is clicked by the user. If present, button 46 would be clicked by the user and the relevant video clips from the demonstration video files 32 would be displayed in a demonstration window 52 to demonstrate a process being described in related text. Note that demonstration videos would be handled as a different media component than the Instructor videos, and the engine of the present invention determines when the relevant component is required and then displays the appropriate video clips."*

(c) Page 8, Lines 7-10: *"Referring again to control toolbar 40, a map screen button 54 as well as back 56a and forward 56b navigation buttons are also provided. By clicking on map screen button 54, the user will access a map window 58 which*

Appl. No.: 09/282,172
Amdt. Dated: 11/19/2004
Off. Act. Dated: 05/19/2004

displays the current position in the database index with a highlight."

(d) Page 8, Lines 17-22: *"Referring also to FIG. 2, a graphical interface 62 is shown which integrates the individual windows described in FIG. 1. While the windows are generated as separate functions/entities in the software, the would not appear as separate windows in the graphical interface 62. Thus, it will be appreciated that the windows can be integrated on one interface as shown in FIG. 2 or as separate floating windows as shown in FIG. 1 without departing from the invention."*

4. Extension of time under 37 CFR 1.136(a).

A petition is enclosed with this RCE for a 3 month extension as described in 37 CFR 1.136(a); an appropriate fee is enclosed.

5. Conclusion.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to immediately withdraw the outstanding rejection of the claims and to pass this application to issue.

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